

Previous References.

CB. 63-40-142, 4, 10/13

1941-42

(C.B.)

File No. 29-41

Serial Nos. 23226

Later References.

CB 45-41-29.

CB 53-42-4

CB 31-43-526.

PRESERVE

GENERAL AND REVENUE SECRETARIAT.

CB 31-43-28, 29, 30

Serial Nos. 23124.

Part B for

April 1942.

SUBJECT.

Prayer of MA. Parasuram
Munigappan Koie Street, Kil-Chipalaya
Solemn that-in ban against him
may be lifted.

My be retained
29/11/54

app/29

27/11

Serial
No.

23

Petr. dated 19.3.42

From M. A. Parashuram
Salem.

Requests that an enquiry about his being a domiciled Mysorean be instituted, that he be allowed an opportunity to prove his incontrovertible case and that the ban put on him from entering the State be removed.

Flag Z.

CS 63-40-1

Flag Y.

M. A. Parashuram was expelled from the State in Oct. 1940. under Sec 32 of the Mysore public Security Act on the recommendation of the Dist. Magt. Bangalore. In anticipation of this order, he arrived in Bangalore on 21.3.41 & he was therefore arrested & remanded to Jail pending further trial. He was then tried by the Dist. Magt. and convicted to suffer 3 months R.I. After he underwent imprisonment, he was again deported from the State.

Now, he prays that his Case may be reconsidered and order passed removing the ban put on him from entering the State.

Subs for orders with refs.

WD/C4155-GPB-55,000-23-10-41

27/3/42

Serial
No.

Subd. Parasuram was ⁺externed from the State as a foreigner on the recommendation of the D.M., Bangalore, who stated ⁺that he was a ~~xxxxxxxx~~ native of Madras Presidency, and that his presence was undesirable as he was taking active interest in labour problems. He obeyed the order and left the State on the 31st October 1940. — Later on, he addressed a letter to Govt. stating that he is not a foreigner and that he therefore intended to arrive at Bangalore in March 1941. He was arrested on arrival. The D.M. then wrote a letter ⁺to Govt. stating that Parasuram had been living in Bangalore for nearly 15 years, and that he was therefore likely to succeed in his attempt to prove that he was not a foreigner. The D.M. accordingly recommended that in place of the order externing Parasuram, he may be directed to remove himself from the Districts of Bangalore, Mysore and Kolar under Sec. 4 (i) (c) of the Public Security Act.

The D.M. was informed in reply that he may give a hearing to the Advocate of Parasuram, and that if the evidence in his favour is found to be strong, action may then be taken to prohibit his entrance into the Districts of Bangalore, Mysore and Kolar.

But the case against Parasuram had since been taken up by the Magistrate, and in August 41, he was convicted for violating the Govt. Order. In the appeal, the Sessions Judge took the view that it is unnecessary to consider the question whether the accused is a foreigner or not, as in his opinion "no court is competent to question the validity or

Z

I

M

4

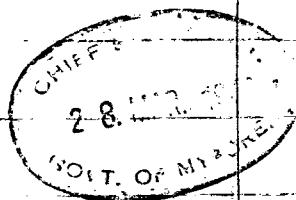
Serial
No.

otherwise of orders like the one under advertence".

MAR 31 1942

9964

The prayer of Parasuram that the ban against him may be lifted is for orders. The D.M. may perhaps be consulted if the presence of the individual is still considered undesirable.



led
1-8-3

Law Officer

11-3
9/3

He was also informed that Govt see no reason to revise the order of attachment

Swamy

11-3
30/3

11-3

1/4/42

11-3

Draft order

11-3

Issue
now
2/4

2/4/42

26

No. 3308/42. Dated 2-4-42

To Mr. A. Parasuram.

Inform him that Govt see no reason to revise the order passed

3048
CB

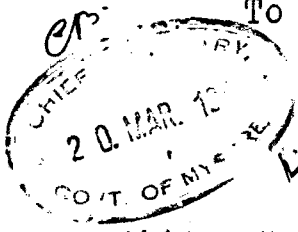
CA 29-41-23

From

M.A.Parasram,
Muniyappan Koil Street,
Kitchipalayam,
Salem.

To

The Chief Secretary,
Mysore Government,
BANGALORE.



Revered Sir,

1. I am a subject of the Mysore State; and was
externed under the provisions of the Mysore Public Security
Act (Act 24 of 1939) by order of the Chief Secretary to
the Government of Mysore in his order No.1953-54/C.B./
63-40-2 dated the 28th October 1940, ordering me to
remove myself from the Mysore state within 12 hours of
service of the said order.

2. I obeyed the above order, but owing to the un-
avoidable and compelling necessity of my private affairs,
I had to come back to Bangalore on the 21st of March
1941. I also gave due intimation of this two days before
my arrival at Bangalore. There was no objection to my
arrival at Bangalore but I was surprised to be arrested
at Bangalore Railway station for alleged disobedience
of the previous order of 28-10-1940 and a prosecution
was forthwith commenced therefor ending in my being con-
victed by the city Magistrate, Bangalore on 12-8-1941
in C.C.989 of 1940-1941 on his file convicting me to
undergo imprisonment for 3 months R.I. which conviction
was also confirmed by the Sessions Judge, Bangalore
Division on Criminal Appeal No.44 of 1941-42 on his file

preferred by me.

3. At the outset, I beg to most humbly submit that my purpose in intimating the Government that I would be arriving at Bangalore on 21-3-1941 was not to defy the Government but to duly intimate my arrival beforehand and to satisfy the authorities that I had no intention to infringe the laws of the state by my so coming, but that I came there for purposes purely private and unavoidable even though from the purely legal point of view, in as much as I was, and still continue to be, a domiciled Mysorean I ^{am} can always be entitled to be within the state of Mysore though I am bound to satisfy authorities that I am only a domiciled Mysorean and not a "foreigner" as understood under provisions of Mysore Public Security Act.

4. I took up the defence in the prosecution started against me in this connection, that I was a domiciled Mysorean and not a "foreigner". Even though the trial Court took evidence offered by me on the issue regarding my being a domiciled Mysorean and found against me, it purported to rely more upon the provision in the Act laying down that "no proceedings or order taken or made under this Act, shall be called in question by any Court." (Section 37 of the Act.) The appellate Court however refused to go into the question of fact relating to the issue whether I was a foreigner or not finding that I am not entitled to lead evidence at all by reason of the provision of Section 37 of the Act. In the circumstances, I need hardly state that no final finding

could be secured by me through the Court of appeal.

5. Even though I was ultimately convicted to undergo imprisonment only 3 months R.I., I was under ^{duress} ~~bare~~ and ~~in~~ prison for a period of over 10 months from the day of my arrest to the date of my release from Bangalore Central Jail in November 1941, and I was refused to be enlarged on bail during the pendency of my prosecution.

6. Since the date of my release from Jail after my conviction, I am living in the City of Salem and I am suffering under severe hardships by reason of handicap of my being a stranger here, not in a position to ^{unpropitious for} ~~in~~ take to any job, the times being quite ~~inauspicious~~ of the same.

7. I beg to reiterate, as strongly as is humanly possible I am a MYSOREAN properly so called. Myself and my uncles and others have been loyal subjects of the Maharajah of Mysore but the caprice of the law (as is interpreted by the Courts) would have it, that I could not prove this fundamental matter before Constituted law Courts. In fact, the appellate ^{for} ~~in~~ judgment in so many words directs me to approach the Government and prove the fact of my being a Mysorean and not a "foreigner". In the circumstances I most humbly request that you may be pleased to enquire about my being a domiciled Mysorean or not. I may be permitted to have the assistance of my legal advisers during the said

enquiry. I am sure that the most enlightened state of the South will refuse to expel one of its loyal patriotic and domiciled subjects, once it comes to know on tangible evidence that he is not a "foreigner" but a son of the soil. I may be permitted by special orders suspending the original order temporarily, to be present during the enquiry in Bangalore and hereby undertake not to partake in any activity public or private of any kind whatsoever during the said enquiry. Quite a large number of relatives are residing in Mysore state and I am mortally prejudiced by my not being able to look to my private affairs which demand my immediate attention. I am practically yearning to be

back to what is properly my motherland; and I hope you will be pleased to kindly order an immediate enquiry about my being a domiciled Mysorean, allow me an opportunity to prove my incontrovertible case, and remove the ban put on me from entering the State of Mysore and thus render justice. For which act of kindness as in duty-bound, I will forever pray. I am,

Revered Sir,

Your most obedient and Loyal Subject,

19-3-1942. M. A. Parashuraman

Enclosures:

1. Copy of judgment in trial Court in C.C.989 of 1940-1941 (Bangalore City Magistrate).
2. Copy of appeal judgment in -do-.

IN THE COURT OF THE CITY MAGISTRATE, BANGALORE.

Dated the 12th day of August 1941.

Present:- Y.Srikantaiya Esquire, B.A.

City Magistrate, Bangalore. 24th September 1941.

Criminal Case No.989/40-41.

Complainant. Vs. Accused.

Government. M.A.Parasram.

JUDGMENT.

1. This case arises out of a charge sheet filed by the Police of Kengerigate Police Station for an offence under Section 34 Cl 2 of the Mysore Public Security Act. The facts of the case are briefly as follows:-

2. On 28th October 1940 Government issued an order under Section 32 of the Mysore Public Security Act to the effect that the accused who is a foreigner should remove himself from the State of Mysore within 12 hours of the service of the said order on him. This order is marked Exhibit P.1. It was only served on him on 31-10-40 and in obedience to it he left Mysore State and went to Vellore and remained outside the State for over 4 months. On 19-3-41 he addressed a letter to the Chief Secretary from Vellore marked Exhibit P.2 intimating that he would be returning to Bangalore and adding that he is not a foreigner as mentioned in the Government order. Without awaiting any reply from Government in the matter he actually returned to Bangalore on 21-3-41 when he was arrested by the Police. For disobedience of orders he has been prosecuted under Section 34 Cl 2 of the Public Security Act.

3. Three witnesses have been examined for the prosecution. P.W.3 Mr.Nanjundaiya is a Clerk of the Secretariat who speaks to the issue of Government orders marked Exhibit P.1 directing that the accused should remove himself from Mysore State and to the receipt of a letter Exhibit P.2 dated 19-3-41 in the Secretariat intimating that he would be returning to Bangalore in violation of the said orders. P.W.1 is Mr.K. Rajagopal the Jamadar of the Political Branch who speaks to the service of Exhibit P.1 on the accused on 31-10-40 and to his leaving the state and remaining outside till 21-3-41 on which date he was seen in Bangalore City in violation of the Government orders. P.W.2 is the Sub Inspector of Police Kengerigate Police Station who states that on finding the accused at Bangalore in disobedience of the Government order referred to above he arrested him and filed a charge-sheet. It is admitted by the accused that he returned to Bangalore without permission granted by Government as required under Section 34. The prosecution having thus made out a Prima-facie case a charge under Section 34 Cl.2 has been framed against him. He pleads not guilty to the charge.

4. The case of the accused is that he is not a foreigner as mentioned in the Government order marked Exhibit P.1 and that he has not therefore disobeyed it as it is not applicable to him. He has examined 6 witnesses in support of his contention that he is not a foreigner and that he has acquired domicile in the state. D.W.1 Narayana Setty is a shop keeper in Akkipet Bangalore ~~xxxxx~~ city. He deposes that he has been seeing the accused in Bangalore City for the last 20 years, that he was purchasing provisions from his shop on behalf of his father-in-law Kuppuswamy and on his own behalf till June 1937. He does not know the native place of the accused and is also not aware whether he owns any property in Banga-

Bangalore. According to him his father-in-law Kuppuswami left Bangalore 10 years ago. D.Ws. 2 and 3 are two work men in the carpet weaving Factory of Messrs. B.K. Subbaiya and sons. They depose that the accused was a permanent employee in the said factory for over 16 years. They too do not know the native place of the accused. They are also ignorant as to whether the accused owns any property in Bangalore. According to him his father-in-law Kuppusami was also working in the carpet factory and left Bangalore about 10 years back. D.W.5 Ramachandraiya is the manager of Messrs. B.K. Subbaiah's Carpet Factory. He states that the accused has been working in the said Factory for nearly 20 years as a piece worker and that he has received wages from 1924 to 1939 as per accounts of the Factory. In his Cross Examination it has been elicited that the accused worked in the Factory until 1936 regularly and then absented himself except on two occasions in 1939 when he worked for about 2 months all told. The months or dates on which he worked he is unable to say. He is also unable to say where the accused was and what he was doing from 1936 to 1939 and whether he owns any property. P.W. 4 is Mr. Hanumanthappa, the President of the Bangalore Municipality. His evidence is that the accused is known to him for the last 12 or 13 years that he was employed in Mr. Subbaiya's Carpet Factory and that he was Secretary of Daridra Narayana Sangha when he was president of the said Sangha. He does not know whether he is a foreigner or not. This witness was the President of the Sangha from 1935 to 1939 and the accused was Secretary for 3 years after he became President. He admits that he does not know about the movements of the accused except when he was the Secretary of the Sangha and when he was coming to him for subscriptions for social work. After he left the Secretaryship he does not know anything about his movements. He is also unable to say whether the accused has any interest in the City or owns any property. The last witness P.W. 6 is a Ganeshan a Typist in the Binny Mills. He is also the Secretary of Daridra Narayana Sangha for the last 3 or 4 months. He states that he accused is known to him for the last 10 or 12 years, that he was Secretary of the Sangha from 1935 to 1938 and that he was in Bangalore even after 1938 until the date of his arrest and that he has married in Bangalore. According to him the last reference in which the accused's name appears in connection with the work of the Sangha is a printed notice dated 24-7-38 and in the collection Books also his name appears only till 1938. Because he has been seeing him in Bangalore he is of opinion that he is a native of Bangalore.

Section 37 of the M.P.S. Act lays down "Except as provided in this act no proceedings or order taken or made or purporting to be taken or made or deemed to have been so taken or made under this act shall be called in question by any court. Exhibit P.1 is an order passed by Government under section 32 and I do not see any provision in the Act which enables the accused to challenge its validity in a Court instead of contesting it before the authority which passed the order. Section 31 read with Section 34 clearly goes to show that so long as an order passed under Section 32 is allowed to exist and it is not withdrawn by the authority promulgating it, any disobedience of the said order is an offence.

6. Even assuming that the accused is entitled to contest the applicability of Exhibit P.1 to him on the ground

that he is not a foreigner the evidence that he has adduced does not prove that he is not a foreigner. Under Section 2 clause (3) of the Security Act a "foreigner" has been defined as "a person who is not a natural born subject of His Highness the Maharaja or who has not acquired domicile in the state by residence therein for not less than 5 years immediately proceeding the date when the question of his status arises coupled with an intention to reside therein permanently. The evidence of the defence witnesses only shows that the accused was living in Bangalore till 1938 working in a carpet Factory or associating himself with Daridranarayana Sangha. After 1938 where he was or what he was doing none of them is able to say. They also do not know whether the accused has any house or other immovable property in Mysore state or whether he is living with his family therein. On the other hand P.W.2 and P.W.3 have stated that the accused is a native or Cunjeevaram that he has no property in Mysore State and that he holds no permanent employment. The accused has not proved that he is either residing in Mysore State for a period of 5 years immediately proceeding the date on which the question of his status arose or his intention to reside therein permanently.

7. In the result I hold him guilty of the offence with which he is charged and I accordingly convict him under Section 258 Criminal Procedure Code and sentence him to undergo R.I. for 3 months.

Pronounced in open Court.

(Sd.) Y. Srikantaiya.

City Magistrate.

Bangalore.

12/8/41.

APPENDIX TO JUDGMENT IN C.C.NO.989/40-41.

The prosecution examined the following witnesses.

1. Rajagopal.
2. Mr.Seshaiya.
3. D.Nanjundaiya.

and filed the following Exhibits.

Exhibit P.1- Notification served on the accused.

(a) Signature of the accused dated 31-10-40.

(b) Original of Ex.P.1.

P.2 Letter dated 19/3/41 of the accused to the Government.

The defence examined the following witnesses.

1. Narayana Setty.
2. Seshaiya.
3. Cheluvaiya.
4. Hanumanthappa.
5. Ramachandraiya.
6. Ganeshan.
3. 2 wages registers.

and filed the following Exhibits.

Ex. D.1 -Account book.

- A) Entry relating to accused account. (True Copy)
2. Account book pertaining to transaction.

IN THE COURT OF SESSIONS, BANGALORE DIVISION, BANGALORE.
Dated:- The 11th day of October -1941.

Present:-

G. Paramasiviah, Esq., B.A., L.L.B.,
Sessions Judge.

Criminal Appeal No.44 of 1941-42.

M.A.Parasram, Accused APPELLANT.

Vs.
Government of Mysore by the Police
of Kengeri Gate Police Station, Respondent.
Bangalore.

Petition of Criminal Appeal presented by Mr. K. Hanu-
manthiah, Advocate, for the appellant--Accused under
Sections 409 and 419 of the Criminal Procedure Code, against
the conviction and sentence passed by the City Magistrate,
Bangalore, in Criminal Case No.989 of 1940-41 on the file
of this Court, on 12-8-1941, for an offence under Section 34
Clause (2) of the Mysore Public Security Act: the sentence
awarded three months rigorous imprisonment.

JUDGMENT.

1. The Appellant-Parasram is convicted in C.C.No.989 on the file of the City Magistrate, Bangalore, under Section 34 Clause (2) of the Mysore Public Security Act XII of 1940 on a charge-sheet presented by the Police alleging that he removed himself from the Mysore State on 31-10-40 in obedience to the order issued in Government Notification No.1953-4/C.B.--63-40-2 dated 28-10-40 under Section 32 of the Mysore Public Security Act and returned to Bangalore City on 21-3-41 without permission in writing by Government and sentenced to three months rigorous imprisonment.
2. There is a delay of eight days in filing this appeal and the same is condoned.
3. In the course of arguments the learned Counsel for the Appellant urged that the learned Magistrate erred in holding that the Appellant is a foreigner instead of concluding that he is a Mysorean by domicile and that in holding that the Appellant is not competent to question the validity of the Government Order referred to above. The Government Order which is marked as Exhibit P.1 purports to have been passed under the powers vested under Section 32 of the Mysore Public Security Act and is to the effect that he being a foreigner should remove himself from the State of Mysore within twelve hours of the service of the order on him and that if he neglects or fails to do so, the Inspector General of Police would take such action as may be necessary to cause his removal from the State. The Accused has admitted that he was arrested and sent out of Mysore State in pursuance of the above order and that he notified the Chief Secretary to Government as per Exhibit P.2 dated 28-10-40 and returned to the State. He also contended that in-as-much as he was not a foreigner he was not bound by the Order Exhibit P.1.

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and said to the Stenographer and Pronounced
 11-11-18 no error shown in Open Court.

under the power vested under Section 22 of the
 authority, and is to the effect that he
 did remove himself from the state of Texas within three

G. R. S. App. F. G. 3.

GENERAL AND REVENUE
SECRETARIAT.

(Continuation sheet draft form.)

no 3308 / CS. 29-41-24
Date 2/4/42
%

M. A. Paraburam
Muniyappan Koil St.
Kitchipalam
Salem

Sir.

With refer to your letter
dated 19.3.42 requesting
among other matters
that the ban against you
may be lifted, I am
directed to state that
Govt. regret that they
see no reason to revise
the order of excommunication

Yours faithfully

MAR
2/4
for chief Secy Govt

No. 3308/AB 29-41-24.

2nd April 1942.

M. A. Parasuram,
Muniyappan Koil Street,
Kitchipalyam,
S a l e m.

With reference to your petition dated 19th March 1942, requesting among other matters that the ban against you may be lifted, I am directed to state that Government see no reason to revise the orders of externment.

Yours faithfully,

May 2/4
For Chief Secretary to Government.